REMARKS

This submission is in response to the final Official Action dated December 4, 2002. Claims 1 and 8 have been amended. Claim 1 has been amended to recite "wherein the containment layer is sealed to at least one edge of said upper fibrous layer" for clarification of the identified feature. Support for this amendment can be found throughout the specification, e.g., page 5, lines 22-24 and page 9, lines 26-27, and in Figure 1. Claim 8 has also been amended to correct for improper reference of an unselected species of a Markush group. Therefore, claims 1-3 and 5-9 are pending. No new matter is added by the amendments. Reconsideration of the above identified application, in view of the above amendments and the following remarks, is respectfully requested.

Applicants appreciate the Examiner's time and consideration during a telephone interview between Examiner Webb and the undersigned held February 25, 2003 in which we discussed the foregoing claim amendments and the references cited against the claims in the final Office Action. We agreed to amend the claims as indicated above. While no specific support was discussed in the telephone interview, Examiner Webb stated that the amended claims, as discussed, presented no issue of new matter.

Claims 1-3 and 5-9 have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, the Examiner has stated that "wherein the

containment layer is sealed to at least one lateral edge of said structure" is indefinite. Claim 1 has been amended, as represented in the telephone interview, to clarify the sealing of the containment layer. Claim 1, as amended, indicates that the containment layer is sealed to at least one edge of the upper fibrous layer. In view of the foregoing amendments, the claims now comply with the requirements of § 112, and applicants submit that the rejection on this ground should be withdrawn.

Claims 1 and 2 have been rejected as anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 5,814,034 to Widlund et al. The Examiner asserts that Widlund et al. discloses use of an absorbent structure with an upper liquid acquisition layer, liquid distribution layer and a liquid storage layer, where the liquid storage layer includes superabsorbent particles. The Examiner asserts that Widlund also discloses the use of a containment layer which holds the storage layer against the distribution layer.

The rejection is respectfully traversed, and reconsideration is respectfully requested.

As represented in the telephone interview, Claim 1, as amended, indicates that the present invention requires an upper fibrous layer, a lower fibrous storage layer, and a containment layer, and clarifies that the containment layer is sealed to at least one edge of the upper fibrous layer. In contrast, Widlund requires top and bottom sheets, which together comprise an encapsulating unit which

surround the layers (See '034 patent, col. 9, lines 12-15). Nowhere in Widlund are the sheets sealed in any way to the absorbent structure. Therefore, amended claim 1, and dependent claim 2, are not anticipated by Widlund et al.

Claims 1, 3, and 5-8 stand rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 4,988,344 to Reising et al. With respect to claim 1, the Examiner contends that Reising discloses use of an absorbent article with the use of an upper fibrous layer which has an acquisition layer, a distribution layer, and lower storage layer which has superabsorbent particles, as well as a containment layer, sealed along the periphery, that holds the storage layer against the distribution layer.

The rejection is respectfully traversed, and reconsideration is respectfully requested.

Applicants submit that Reising provides for an absorbent article with acquisition layers ('344 patent, Figure 3, no. 58), a distribution layer ('344 patent, Figure 3, no.50), and a storage layer ('344 patent, Figure 3, no. 52), and a containment layer which encapsulates the storage layer in its entirety ('344 patent, reference number 60 in figures 4, 6, and 9). In addition, Reising also has a backsheet and topsheet similar to that of Widlund et al. -- that is, they contain the absorbent structure and adhere to each other at the periphery. Applicants respectfully submit that claim 1, as amended, clarifies that the containment layer is sealed to at least one edge of the upper fibrous layer. Nowhere in Reising is the same structure presented.

Therefore, the presently claimed invention of claim 1, and dependent claims 3 and 5-8, are structurally different from Reising, and Reising does not anticipate these claims.

Claim 8 has also been rejected on formal grounds under the rejection of Reising. In the telephone review, the Examiner recommended an appropriate amendment for claim 8. Applicants have made the suggested amendment such that claim 8 now properly refers to a Markush group. Based on the amendments applicants respectfully request that the rejection be withdrawn.

Claim 9 is rejected as being unpatentable under 35 U.S.C. § 103(a) by Reising in view of U.S. Patent No. 5,460,622 to Dragoo et al. The Examiner states that Reising fails to disclose lightly bonded airfelt material, but contends that Dragoo et al. discloses a storage layer that is bonded. The Examiner contends that it would have been obvious to one skilled in the art to have Reising's storage core bonded as in Dragoo, to add integrity to the storage core.

The rejection is respectfully traversed, and reconsideration is respectfully requested.

As presented above, applicants submit that Reising does not have the same structure as the presently claimed invention in amended claim 1, and thus claim 9 is patentable for the same reasons set forth above. Adding a bonded core, as in Dragoo, would not have made the invention obvious. Therefore, it would not have

been obvious to use a bonded core in Reising to arrive at the same invention, and applicants respectfully request that the rejection be withdrawn.

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

Sandra Lee

Sandra S. Lee
Reg. No. 51,932
Attorney for Applicants

DARBY & DARBY, P.C.
Post Office Box 5257
New York, NY 10150-5257
Phone (212) 527-7700

EXPRESS MAIL CERTIFICATE

Date 2/27/03 Label No. EV294036355US

I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

D Brock — Signature

Name (Print)

PLEASE CHARGE ANY DEFICIENCY UP TO $300.00 OR CREDIT ANY EXCESS IN THE FEES DUE WITH THIS DOCUMENT TO OUR DEPOSIT ACCOUNT NO. 04-0100

Customer No.: 07278
PATENT TRADEMARK OFFICE

Docket No: 1313/1E290-US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: James WESTPHAL; John P. ERSPAMER; Shiu-Kang Laurence LI

Serial No.: 09/719,338 Art Unit: 3761

Confirmation No.: 7143

Filed: January 17, 2001 Examiner: J. Webb

For: UNITARY ABSORBENT STRUCTURE CONTAINING SUPERABSORBENT POLYMER

MARK-UP ACCOMPANYING FINAL AMENDMENT UNDER 37 C.F.R. §1.121

Hon. Commissioner of
Patents and Trademarks
Washington, DC 20231

February 27, 2003

Sir:

1. (Amended) A unitary absorbent structure, comprising:

an upper fibrous layer having a liquid acquisition zone extending to one surface and a liquid distribution zone extending to another surface;

a lower fibrous liquid storage layer in liquid communication with the distribution zone surface of said upper layer, said storage layer including superabsorbent polymer particles; and

a containment layer surrounding the storage layer and extending to outer edges of said structure, said containment layer containing fibers and superabsorbent polymer particles of said storage layer against a distribution zone surface of the upper layer, and wherein the containment layer is sealed to at least one [lateral] edge of said upper fibrous layer [structure].

8. (Amended) The structure of claim [7] 1 wherein said containment layer comprises thermoplastic film [is] selected from the group consisting of polyethylene and polypropylene.